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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/500,937

07/08/2004

James Andrew Brennan

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EXAMINER

SAFAVI, MICHAEL

ART UNIT

PAPER NUMBER

3637

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/500,937	Applicant(s) BRENNAN, JAMES ANDREW	
	Examiner M. Safavi	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-26 is/are pending in the application.
- 4a) Of the above claim(s) 7-12 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 13-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 01, 2008 has been entered.

Specification/Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "120" has been used to designate both a "shaping element" and a "securing device".

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "the...securing device comprises a surface-to-member inter-member securing device that secures two side form support members together by engaging with a recessed channeled surface of each support member", (**claim 5**), must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

Art Unit: 3637

prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The disclosure had not originally presented "the...securing device comprises a surface-to-member inter-member securing device that secures two

side form support members together by engaging with a recessed channeled surface of each support member” as now appears in claim 5. Therefore, it is not clear as to what a “surface-to-member inter-member securing device” is or how such “secures two side form support members together by engaging with a recessed channeled surface of each support member”.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6, 13-18, and 22-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5, lines 2-4, it is not clear as to what is being defined by “the...securing device comprises a surface-to-member inter-member securing device that secures two side form support members together by engaging with a recessed channeled surface of each support member”. The specification does not appear to describe such a securing device arrangement.

Claim 13, line 8, “the attachment surfaces” lacks antecedent basis within the claim. Therefore, it is not clear as to what “the attachment surfaces” defines. Line 11, “the adjacent side form support members” appears to lack antecedent basis within the claim. Therefore, it is not clear as to what “the adjacent side form support members” defines. Claim 13 appears to introduce only one side form support member.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 13, 14, 17-19, and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Nolan '191. Nolan '191 discloses, Figs. 1-6, 13, and 14 for example, a side form support member A-D, having a top support surface capable of supporting another member, a bottom resting surface for contacting and being supported by an underlying top support surface of a further member, at least one attachment surface that is separate and distinct from the side form support top and bottom surfaces. The side form support member A-D can support a side form-member by contacting a second side thereof. At least one channel can be seen as within 11-13. A plurality of workmate surface-to-member securing devices is at 16, 17 with a plurality of member-to-member securing devices at 21.

Claims 1-5, 13, 14, 17-19, and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by International publication WO 01/96690, (WO '690). WO '690 discloses, Figs. 1 and 2, for example, a formwork structure located on supporting surface, the structure having a side form perimeter including side form members 18, the perimeter defining a curable non-solid material retaining area; the formwork including side form support members 12 that support the side form members, the side form support members releasably fixed relative to the supporting surface by a surface-to-member releasable securing device 16 fixed to the supporting surface and which engages the side form member, characterized in that the side form member is adapted to permit another side form member to be secured thereto by one or more releasable inter-member securing devices, (e.g., any device which may serve to secure one side form support member to another), which are separate to the surface-to-member securing device. As to **claim 4**, the side form support member 18 is secured into a fixed position by using a securing device 12 which engages to an attachment surface of the member which is a separate and distinct surface to the top support surface 18 of the member. Side form support members 56 support the side form members, each side form support member arranged such that it contacts and extends perpendicularly from the second side of the side form member and is releasably fixed relative to the supporting surface by a surface to member securing device as through 116 or through opening of 62.

Claims 1-5 and 13-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomas '935. Thomas '935 discloses, Figs. 5-10, 19, and 22, for example, a side form member 40 or 44 used in defining a perimeter for retaining curable non-solid material, the member having a top support surface capable of supporting another member, a bottom resting surface for contacting and being supported by an underlying support surface, the member having two opposed sides that extend from the top and bottom surfaces, a support side capable of being supported by one or more side-form support members 58 or 80/150/142, and a retaining side, wherein the retaining side is capable of having side-moulds affixed thereto. The retaining side, (one side), includes two channels therein, an upper channel located near the top surface and a lower channel located near the bottom surface, (see for instance, 46 or opposite of 46), by which a side-mould may be affixed thereto, (**claims 15, 16, 20, and 21**). The support side, (opposite side), has two channels therein, an upper channel located near the top surface and a lower channel located near the bottom surface (see for instance, opposite of 46 or 46), the channels facilitating the attachment of one or more side form support members to the side-form members. Side form support members 56 support the side form members, each side form support member arranged such that it contacts and extends perpendicularly from the second side of the side form member and is releasably fixed relative to the supporting surface by a surface to member securing device as through 116 or through opening of 62. The side form member 58 or 80/150/142 is adapted to permit another side form member to be secured thereto by one or more releasable inter-member securing devices, (e.g., any device which may

serve to secure one side form support member to another), which are separate from the surface-to-member securing device.

Claims 1-5 and 13, 14, 17-19, and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Fitzgerald '437. Fitzgerald '437 discloses, Figs. 2-4, for example, a side form member 21, 25 or 31 or 41, 43 used in defining a perimeter for retaining curable non-solid material, the member having a top support surface capable of supporting another member, a bottom resting surface for contacting and being supported by an underlying support surface, the member having two opposed sides that extend from the top and bottom surfaces, a support side capable of being supported by one or more side-form support members 23, 26 or 30 or 50, and a retaining side, wherein the retaining side is capable of having side-moulds affixed thereto. Side form support members 23, 26 or 30 or 50 support the side form members, each side form support member arranged such that it contacts and extends perpendicularly from the second side of the side form member and is releasably fixed relative to the supporting surface by a surface to member securing device 29 or 52. The side form member 21, 25 or 31 or 41, 43 is adapted to permit another side form member to be secured thereto by one or more releasable inter-member securing devices, (e.g., any device which may serve to secure one side form support member to another), which are separate from the surface-to-member securing device.

Response to Arguments

Applicant's arguments filed February 1, 2008 have been fully considered but they are not persuasive. As for WO '690, side form support members 12 do extend perpendicularly to the second side of the form members 18.

With regard to Thomas '935, side form support members 56 or 80/150/142 do extend perpendicularly to the second side of the form members 40, 44. side form support members 56 or 80/150/142 are releasably fixed to a supporting surface as at 116 of 146. Further, the upper surface, (upper surface where lead line of 40 touches), of the form members 40 of Thomas '935 can support another element including another form member 40. Applicant's argument to "the side form support members each have a fiat upper surface having a large enough area to permit another identical side form support member to securely rest thereon, thus 'supporting a second side form support member'" or that the "corner members 56 and reinforcement strongbacks 80 taught by Thomas have narrow upper surfaces with small areas that would not permit identical members to securely rest thereon", is not deemed persuasive. The claim language does not set forth any particular physical dimensions that would serve to read over the applied prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. Safavi/
Primary Examiner, Art Unit 3637

M. Safavi
May 06, 2008